

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 22, 2006. In the Office Action, Claims 19-25 were rejected. Applicants add new Claims 34-39. Thus, Claims 19-25 and 34-39 remain pending in the Application, and Claims 1-18 and 26-33 are being treated as being withdrawn from consideration. Applicants respectfully request reconsideration and favorable action in this case.

In the Office Action, the following actions were taken or matters were raised:

RESTRICTION/ELECTION

Applicants confirm the election without traverse of claims 19-25 for examination in response to the Examiner's restriction and request for election. Claim 1-18 and 26-33 are indicated as having been withdrawn from consideration.

SECTION 102 REJECTIONS

Claims 19-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 2003/0058248 issued to Hochmuth et al. (hereinafter "*Hochmuth*"). Applicants respectfully traverse this rejection.

Applicants respectfully submit that Claims 19-23 of the present Application are patentable over *Hochmuth*. However, Applicants have elected not to address the patentability of Claims 19-23 over *Hochmuth* and instead submit that *Hochmuth* does not qualify as prior art under Section 102(e) and, therefore, no *prima facie* rejection has been made. By making this choice, Applicants do not admit the accuracy of the Examiner's remarks or reasoning or acquiesce in any way to the reasoning underlying the rejection.

Applicants conceived of the invention which is the subject of the present Application prior to September 21, 2001, the purported effective date of *Hochmuth*. In support thereof, Applicants submit the accompanying Declarations under 37 C.F.R. §1.131, the exhibits of which evidence the conception of the invention prior to the purported effective date of *Hochmuth*. Further, Applicants submits that the accompanying Declarations under 37 C.F.R. §1.131 evidence diligence in the completion of the invention which is the subject of the present Application from a time prior to the purported effective date of *Hochmuth* continuously up to the

date of filing the present Application. For example, the exhibits of the accompanying Declarations evidence activities related to the preparation and filing of the present Application from a time prior to the purported effective date of *Hochmuth* continuously up to the date of filing the present Application. Accordingly, Applicants respectfully request that the rejection of Claims 19-23 based on *Hochmuth* be withdrawn.

SECTION 103 REJECTIONS

Claims 24 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Hochmuth*. Applicants respectfully traverse this rejection.

As indicated above, Applicants respectfully submit that *Hochmuth* is not available as a prior art reference under 35 U.S.C. 102(e). Therefore, the *Hochmuth* reference is not available to support a rejection under 35 U.S.C. § 103. Therefore, for at least this reason, Applicants respectfully request that the rejection of Claims 24 and 25 be withdrawn.

Additionally, Applicants respectfully submit that *Hochmuth* is not available as prior art under 35 U.S.C § 103 because *Hochmuth* and the present Application were commonly owned when the present Application was filed. According to 35 U.S.C. § 103(c):

Subject matter developed by another person, which qualifies as prior art under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The present Application, owned by Hewlett-Packard Development Company at the time the invention was made, was filed October 31, 2001. *Hochmuth*, a patent application owned by the Hewlett-Packard Development Company, was filed on September 21, 2001, and was published on March 27, 2003 (i.e., after the present Application was filed). Since *Hochmuth* appears to potentially be available as a prior art reference only by virtue of 35 U.S.C. § 102(e), *Hochmuth* is not available as a prior art reference under 35 U.S.C. § 103 because the present application and *Hochmuth* were commonly owned at the time the present application was filed. Because the Examiner relied on *Hochmuth* to reject Claims 24 and 25, Applicants respectfully submit that the rejection of Claims 24 and 25 based on *Hochmuth* should be withdrawn.

NEW CLAIMS


Applicants add new Claims 34-39. New Claims 34-39 contain no new matter. Applicants respectfully request allowance of new Claims 34-39.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully requests reconsideration and full allowance of all pending claims.

No fee is believed due with this Response. If, however, Applicants have overlooked the need for any fee due with this Response, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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